

# **EXHIBIT 8**



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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
12/655,357	12/22/2009	Scott A. Moskowitz	066112.0132CONTA2	1045
7590 Scott A. Moskowitz #2505 16711 Collins Avenue Sunny Isles Beach, FL 33160			EXAMINER TSAI, CAROL S W	
			ART UNIT 2857	PAPER NUMBER
			MAIL DATE 08/20/2010	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

**Office Action Summary**

Application No.

12/655,357

Applicant(s)

MOSKOWITZ ET AL.

Examiner

CAROL S. TSAI

Art Unit

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**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --****Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 22 December 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 74-99 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 74-99 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>6/11/2010</u> .   | 6) <input type="checkbox"/> Other: _____                          |

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## **DETAILED ACTION**

### ***Information Disclosure Statement***

1. The listing of references in the specification is not a proper information disclosure statement. 37 CFR 1.98(b) requires a list of all patents, publications, or other information submitted for consideration by the Office, and MPEP § 609 A(1) states, "the list may not be incorporated into the specification but must be submitted in a separate paper." Therefore, unless the references have been cited by the examiner on form PTO-892, they have not been considered.

### ***Double Patenting***

2. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422

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F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

3. Claims 74, 84, and 97 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claim 1 of U.S. Patent No. 7,660,700. Although the conflicting claims are not identical, they are not patentably distinct from each other because a later patent claim is not patentably distinct from an earlier patent claim if the later claim is obvious over, or **anticipated by**, the earlier claim. In re Longi, 759 F.2d at 896, 225 USPQ at 651 (affirming a holding of obviousness-type double patenting because the claims at issue were obvious over claims in four prior art patents); In re Berg, 140 F.3d at 1437, 46 USPQ2d at 1233 (Fed. Cir. 1998) (affirming a holding of obviousness-type double patenting where a patent application claim to a genus is anticipated by a patent claim to a species within that genus). ELI LILLY AND COMPANY v BARR LABORATORIES, INC., United States Court of Appeals for the

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Federal Circuit, ON PETITION FOR REHEARING EN BANC (DECIDED: May 30, 2001).

4. Please see the table listed:

12/655,357	U. S. Patent No. 7,660,229
<p>74. (new) A system for analyzing at least one reference signal comprising:                      a first input that receives at least one reference signal to be analyzed; a first processor that creates an abstract of each reference signal input to said first processor through said first input wherein the abstract comprises signal characteristic parameters configured to differentiate between versions of said reference signal; at least one reference database for storing at least one abstract; a receiver that receives at least one query signal; a second processor that creates an abstract of said query signal received by said receiver, based on the parameters; and a comparing device that compares the</p>	<p>1. An electronic system for monitoring and analyzing at least one signal, comprising: a first input that receives at least one reference signal to be monitored, a first processor that creates an abstract of each reference signal input to said first processor through said first input wherein the abstract comprises signal characteristic parameters configured to differentiate between a plurality of versions of the reference signal; a second input that receives at least one query signal to be analyzed, a second processor that creates an abstract of each query signal wherein the abstract comprises signal characteristic parameters of the query</p>

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<p>created query signal abstract to the reference signal abstracts in the at least one database, each abstract in the at least one reference database corresponding to a version of a reference signal, to determine whether the query signal abstract matches any of the stored at least one abstract in the at least one reference database.</p>	<p>signal; a reference database that stores abstracts of each at least one reference signal; a comparing device that compares an abstract of said at least one query signal to the abstracts stored in the reference database to determine if the abstract of said at least one query signal matches any of the stored abstracts wherein a match indicates the query signal is a version of at least one of the reference signals.</p>
<p>84. A system for analyzing and identifying at least one reference signal, comprising: a first input for receiving at least one reference signal to be identified, a first processor for creating an abstract of each reference signal received based on perceptual characteristics representative of</p>	<p>1. An electronic system for monitoring and analyzing at least one signal, comprising: a first input that receives at least one reference signal to be monitored, a first processor that creates an abstract of each reference signal input to said first processor through said first input wherein the abstract</p>

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<p>parameters to differentiate between versions of the reference signal; a reference database for storing abstracts of each reference signal received in a database; a second input for receiving at least one query signal to be identified, a second processor for creating an abstract of the received query signal based on the parameters; and a comparing device for comparing an abstract of said received query signal to the abstracts stored in the database to determine if the abstract of said received query signal is related to any of the stored abstracts .</p>	<p>comprises signal characteristic parameters configured to differentiate between a plurality of versions of the reference signal; a second input that receives at least one query signal to be analyzed, a second processor that creates an abstract of each query signal wherein the abstract comprises signal characteristic parameters of the query signal; a reference database that stores abstracts of each at least one reference signal; a comparing device that compares an abstract of said at least one query signal to the abstracts stored in the reference database to determine if the abstract of said at least one query signal matches any of the stored abstracts wherein a match indicates the query signal is a version of at least one of the reference signals.</p>
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<p>97. A system for analyzing a plurality of reference signals comprising: a first input that receives a plurality of reference signals to be analyzed; a first processor that creates an abstract for each of the plurality of reference signals input to said first processor through said first input wherein the abstract comprises signal characteristic parameters configured to differentiate between versions of at least one reference signal; at least one reference database for storing the plurality of created abstracts; a receiver for receiving a query signal; a second processor that creates an abstract of said query signal received by said receiver, based on the parameters; and a comparing device that compares the created query signal abstract to the abstracts stored in the at least one database, to determine whether the query</p>	<p>1. An electronic system for monitoring and analyzing at least one signal, comprising: a first input that receives at least one reference signal to be monitored, a first processor that creates an abstract of each reference signal input to said first processor through said first input wherein the abstract comprises signal characteristic parameters configured to differentiate between a plurality of versions of the reference signal; a second input that receives at least one query signal to be analyzed, a second processor that creates an abstract of each query signal wherein the abstract comprises signal characteristic parameters of the query signal; a reference database that stores abstracts of each at least one reference signal; a comparing device that compares an abstract of said at least one query signal to the abstracts</p>
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signal abstract matches any of the stored abstracts in the at least one reference database.	stored in the reference database to determine if the abstract of said at least one query signal matches any of the stored abstracts wherein a match indicates the query signal is a version of at least one of the reference signals.
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#### ***Contact Information***

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to CAROL S. TSAI whose telephone number is (571)272-2224. The examiner can normally be reached on M-F (8:00-4:30).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ramos-Feliciano S. Eliseo can be reached on (571) 272-7925. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

August 18, 2010  
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/Carol S Tsai/  
Primary Examiner, Art Unit 2857

**BLU001426**

<b>Notice of References Cited</b>	Application/Control No. 12/655,357		Applicant(s)/Patent Under Reexamination MOSKOWITZ ET AL.	
	Examiner CAROL S. TSAI		Art Unit 2857	Page 1 of 1

**U.S. PATENT DOCUMENTS**

*		Document Number Country Code-Number-Kind Code	Date MM-YYYY	Name	Classification
*	A	US-6,088,455	07-2000	Logan et al.	380/200
*	B	US-2001/0043594	11-2001	OGAWA et al.	370/356
*	C	US-5,210,820	05-1993	Kenyon, Stephen C.	704/200
*	D	US-6,385,329	05-2002	Sharma et al.	382/100
*	E	US-6,590,996	07-2003	Reed et al.	382/100
*	F	US-5,949,055	09-1999	Fleet et al.	235/469
*	G	US-2002/0009208	01-2002	Alattar et al.	382/100
	H	US-			
	I	US-			
	J	US-			
	K	US-			
	L	US-			
	M	US-			

**FOREIGN PATENT DOCUMENTS**

*		Document Number Country Code-Number-Kind Code	Date MM-YYYY	Country	Name	Classification
	N					
	O					
	P					
	Q					
	R					
	S					
	T					

**NON-PATENT DOCUMENTS**

*		Include as applicable: Author, Title Date, Publisher, Edition or Volume, Pertinent Pages)
	U	
	V	
	W	
	X	

\*A copy of this reference is not being furnished with this Office action. (See MPEP § 707.05(a).)  
Dates in MM-YYYY format are publication dates. Classifications may be US or foreign.